

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

NOTICE OF MOTION

-against-

19 Cr. 116(KMW)

ADALBERTO VELAZQUEZ, et al,

including SAL CASTRO, true name
SAMMY VELASQUEZ,

Defendant.

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PLEASE TAKE NOTICE that defendant SAMMY VELASQUEZ, will, in accordance with the schedule previously set by the Court, move this Court on September 9, 2019 for the following relief:

I. For an Order, pursuant to Fed. R. Crim. P. 12 (b) (3), and 41 (f), and the Fourth and Fourteenth Amendments to the United States Constitution, suppressing any property obtained as a result of the vehicular stop, search and seizure of the defendant and the vehicle he was operating on December 13, 2019. As set forth more fully in the annexed Saffirmation and Memorandum of Law, the defendant seeks to suppress: (1) all property recovered from the Ford Fusion he was operating and any fruits thereof, including: (2) a statement alleged to have been subsequently made by him to law enforcement authorities; and (3) the photograph taken of him (4) and all testimony which is the fruit of the identification procedure concerning same, or in the alternative directing that a hearing be held as to the admissibility of such property or testimony.

II. For an Order, pursuant to Fed. R. Crim. P. 12 (b) (3), and 41 (f), and the Fourth and Fourteenth Amendments to the United States Constitution, suppressing any property obtained incident to the warrantless search of his residence following his arrest on February 27, 2019, in his residence located at 281 Nagle Street, Cliffside Park, New Jersey. During the course of his agents seized four electronic devices: (1) a black Apple iPhone; (2) a white Samsung Galaxy S5 phone; (3) a white Samsung Galaxy S6 Edge phone and (4) a black Samsung table, from the home of the defendant, and any testimony regarding such property to be offered as evidence at trial, or in the alternative directing that a hearing be held as to the admissibility of such property or testimony;

III. In accordance with Rule 404(b) of the Federal Rules of Evidence and the constitutional requirements espoused in *U.S. v. Baum*, 482 F.2d 1325 (2nd Cir. 1973); *U.S. v. Davidoff*, 845 F.2d 1151 (2nd Cir. 1988); *U.S. v. Brennan*, 798 F.2d 581 (2nd Cir. 1986), *Huddleston v. U. S.*, 485 U.S. 681 (1988); *U.S. v. Gilan*, 967 F.2d 772 (2nd Cir. 1992), for the purpose of asking the government to disclose to the defendant any and all acts which the government would seek to introduce against the defendant within two weeks of any scheduled trial date fixed by this court to facilitate the defendant reasonable time to may make a motion pursuant to Rules 403 and 404(b), to preclude introduction of such evidence.

IV. Discovery and Brady Demands

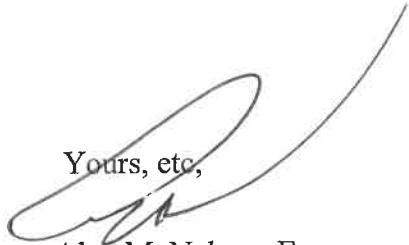
V. Joining all motions of co-codefendants' applicable herein.

VII. For such further relief as the Court deems fair and appropriate.

In support of this motion, Sammy Velasquez relies upon the annexed Affirmation and Memoranda of Law of Alan M. Nelson, Esq., the affidavit of Sammy Velasquez,, the Fourth, and Fourteenth Amendments to the United States Constitution and Fed. R. Crim. P. 12(b)(3), and 41(f).

Dated: Lake Success, New York
September 7, 2019

Yours, etc,

A handwritten signature in black ink, appearing to be 'A. Nelson', written over the typed name.

Alan M. Nelson, Esq.
Attorney for the Defendant
3000 Marcus Ave., Suite 1E5
Lake Success, New York 11042
(516)328-6200

To: Clerk of Court (ECF)
AUSA Michael Krause (ECF)
AUSA Adam Hobson (ECF)
All defense counsel (ECF)
Courtesy copy to Hon. Kimba M. Wood (U.S. Mail)